

# **EXHIBIT 44**

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF GEORGIA  
3                   ATLANTA DIVISION

4                   DONNA CURLING, ET AL., :  
5                   PLAINTIFFS, :  
6                   VS. : DOCKET NUMBER  
7                   BRAD RAFFENSPERGER, ET AL., : 1:17-CV-2989-AT  
8                   DEFENDANTS. :  
9

10                  TRANSCRIPT OF HEARING ON PRELIMINARY INJUNCTION PROCEEDINGS  
11                  BEFORE THE HONORABLE AMY TOTENBERG  
12                  UNITED STATES DISTRICT JUDGE

13                  JULY 26, 2019

14                  9:37 A.M.

15                  VOLUME 2 OF 2

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21                  MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED

22                  TRANSCRIPT PRODUCED BY:

23                  OFFICIAL COURT REPORTER:                   SHANNON R. WELCH, RMR, CRR  
24    2394 UNITED STATES COURTHOUSE  
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UNITED STATES DISTRICT COURT  
OFFICIAL CERTIFIED TRANSCRIPT

1       **Q.**   And you would agree with me that the National Academy of  
2       Sciences report on election systems, Securing the Vote, agrees  
3       that ballot marking devices that generate paper ballots are  
4       acceptable for use because they provide independent auditing;  
5       correct?

6       **A.**   I think that is what it says. I don't have it in front of  
7       me.

8       **Q.**   In your declaration in May, you stated that the only  
9       practical way to safeguard Georgia's upcoming elections was to  
10      require the use of optical scan ballots with auditing. Do you  
11      recall that statement?

12      **A.**   I do.

13      **Q.**   Isn't that contrary to what the National Academy of  
14      Sciences says? Because they also say that a ballot marking  
15      device system is an appropriate method of security as long as  
16      it generates a paper ballot.

17      **A.**   So there has been new research since the National --

18      **Q.**   Answer my question first and then explain. That is not  
19      consistent with what the National Academy of Sciences report  
20      says; correct?

21      **A.**   Yes. Because there has been new research since the  
22      National Academy's result -- report that in my mind does call  
23      into question the security of ballot marking devices.

24           But -- does that answer your question?

25      **Q.**   Yes.

1   **A.**   No. If I said that, then I said that.

2 Q. Mr. Barron, there was a runoff election in December of  
3 2018; is that correct?

**A.** Uh-huh (affirmative).

5     **Q.** And at least the Life Center Ministries polling station  
6     had to use provisional ballots for a portion of that runoff  
7     election; is that correct?

**A.** I don't remember.

9 MR. MANOSO: If I may approach, Your Honor, I will  
10 hand the witness Exhibit 14.

11 Q. (BY MR. MANOSO) Are you with me, Mr. Barron?

12 | A. Yes.

13 Q. You see that this is a news article from December 4, 2018?

14      **A.**      Uh-huh (affirmative) .

15 Q. And this is about two Fulton precincts remaining open  
16 later due to early morning issues.

17 | A. Yes.

18 Q. As it says, the Life Center Ministries polling place  
19 stayed open an hour later because a polling manager lost a  
20 stack of voter access cards?

21 | A. Yes. That is what this says, yes.

22 Q. Do you recall that that occurred in the 2018 runoff  
23 election?

24 A. Yeah. Vaguely, yes.

25 Q. You have no reason to believe that that didn't occur, do

1 you?

2 **A.** No.

3 **Q.** As a result of lost voter access cards, there was no  
4 voting for approximately one hour; is that correct?

5 **A.** Well, they would have started voting provisionally.

6 **Q.** And if those ran out, there would have been no voting;  
7 correct?

8 **A.** Correct.

9 **Q.** I'm glad you mentioned the provisional ballots because it  
10 is true that once the voter access cards were lost provisional  
11 ballots is what were used until those cards could be replaced;  
12 correct?

13 **A.** Yes.

14 **Q.** And as this indicates, your office had to print more  
15 ballots to be used?

16 **A.** Correct.

17 **Q.** Those hand-marked ballots were -- they were collected?  
18 Voters were able to use them; correct?

19 **A.** Yeah. They had to go through the provisional process to  
20 vote. But yes.

21 **Q.** But those hand-marked ballots were counted; correct?

22 **A.** Yes.

23 MS. RINGER: Objection, Your Honor. This is outside  
24 the scope of direct examination.

25 THE COURT: Overruled.

1 | that?

2 | A. I do.

3 Q. All right. And he did not refuse that question; correct?

4     **A.**   As I recall, he followed up the email with a phone call  
5     and discussed that he was capable of doing the number -- the  
6     volume.   But I don't remember if he ever answered, and I'm  
7     pretty sure he did not.

8   **Q.**   As part of this cost analysis, you at some point were  
9   directed by your board to ask the Secretary of State whether  
10 Morgan County could conduct elections using hand-marked paper  
11 ballots; correct?

12      **A.**      Correct.

13 Q. And they told you no; right?

14      **A.**      Yes, they did.

15 Q. All right. And you understand that to apply to all  
16 elections that Morgan County conducts; correct?

17 | A. Correct.

18 Q. You mentioned the DHS physical assessment for --

(There was a brief pause in the proceedings.)

20 Q. (BY MR. SPARKS) You mentioned a DHS physical assessment  
21 that Morgan County accepted from the federal government;  
22 correct?

23     **A.**     Correct.

24 Q. And that assessment did not include any recommendations or  
25 guidance concerning cybersecurity; correct?

1   **A.**   No. It was purely a physical assessment.

2 Q. Okay. Forgive me. I'm skipping along, as well, given the  
3 hour.

4 Are you testifying that you take files from an FTP site  
5 that is internet facing and put them into ExpressPoll?

6 | A. Correct.

7 Q. You testified earlier that there is a USB stick that you  
8 move back and forth between the county level GEMS server and  
9 your internet-facing computer; is that right?

10 **A.** Yes. But it is locked when it is in my work computer.

11 Q. Yes. I understand.

12 You have described a number of policies and procedures  
13 concerning the administration of elections tonight; correct?

14 | A. Yes.

15 Q. I'm sorry?

16 A. Yes.

17 Q. And if this Court orders relief in this case concerning  
18 how ballots are cast and counted, you will cause Morgan County  
19 elections to follow that order; correct?

20 A. Yes.

21 MR. SPARKS: No further questions at this time.

22 | Thank you.

## CROSS-EXAMINATION

24 BY MR. BROWN:

25 Q. Hi, Ms. Doran. Good to see you again. Bruce Brown.

1 C E R T I F I C A T E  
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3 UNITED STATES OF AMERICA  
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5 NORTHERN DISTRICT OF GEORGIA  
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7 I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of  
8 the United States District Court, for the Northern District of  
9 Georgia, Atlanta Division, do hereby certify that the foregoing  
10 379 pages constitute a true transcript of proceedings had  
11 before the said Court, held in the City of Atlanta, Georgia, in  
the matter therein stated.

12 In testimony whereof, I hereunto set my hand on this, the  
13 2nd day of August, 2019.

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16  
17 *Shannon R. Welch*  
18 SHANNON R. WELCH, RMR, CRR  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT  
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